

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,
Plaintiff,

CASE NO. CR. 96-350 WBS

v.

ORDER

MADY CHAN, et al.,
Defendants.

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Defendant Mady Chan suggests that the court's order of February 2, 2006 denying defendants Paul Chan,¹ Mady Chan, Linda Chan, and Huy Chi Luong's² motions to suppress wiretap evidence failed to consider the arguments raised by defendant Mady Chan in his Supplemental Points and Authorities in Support of Motion for Suppression of Wiretap Evidence, filed August 1, 2003. Defendant Mady Chan raised two arguments therein: (1) that the wiretap evidence obtained after the wiretap's objective was met must be

¹ Defendants Bao Qin Chen, John That Luong, Danny Hung Luong, Linda Chan, Jeanette Hong, Mady Chan, and Huy Chi Luong joined in Paul Chan's motion.

² Defendants John That Luong, Paul Chan, and Jeanette Hong joined in this motion.

1 suppressed, and (2) that the interception of Linda Chan's
2 conversations was illegal because she was not a named co-
3 conspirator.

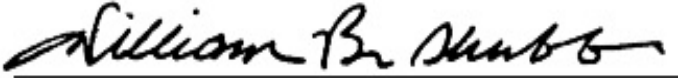
4 The court did consider, but rejected, those arguments
5 for the following reasons. First, the objective authorized by
6 the February 21, 1996 wiretap order was for the government to
7 obtain evidence needed to prosecute Mady Chan. Contrary to Mady
8 Chan's arguments, in a large scale conspiracy such as this one,
9 it is far from clear that evidence to support his prosecution
10 could not be obtained after his arrest.

11 Second, the government's continued recording of
12 conversations on phone line (916)685-4360 after Mady Chan's
13 arrest and wiretapping of Linda Chan's conversations on this line
14 were not clearly erroneous because the court's orders authorizing
15 wiretapping on that phone line were not limited to the
16 interception of conversations among the co-conspirators, but
17 instead authorized the interception of conversations on that
18 particular phone line. Title III of the Omnibus Crime Control
19 and Safe Streets Act of 1968 contemplates that communications not
20 explicitly authorized may be intercepted during a wiretapping
21 investigation. Title III merely requires that wiretapping "be
22 conducted in such a way as to minimize the interception of
23 communications not otherwise subject to interception." 18 U.S.C.
24 § 2518(5). As previously discussed in this court's order, the
25 Supreme Court has held that minimization of intrusion by wiretap
26 under § 2518(5) may be more difficult, and more extensive
27 surveillance may therefore be authorized, when a wiretap is
28 directed at what may be a large scale conspiracy, as is the case

1 here. (Feb. 3, 2006 Order 7 (citing Scott v. United States, 436
2 U.S. 128, 140-41 (1978)).)³ Therefore, the fact that Linda
3 Chan's conversations on this phone line were intercepted, even
4 though she was not a named interceptee of the wiretap affidavit,
5 is insufficient to establish that the wiretapping evidence should
6 be suppressed.

7 It was not necessary for the court's order to expressly
8 mention each argument, and each nuance of every argument, raised
9 in support of the motion. Simply because the court did not
10 expressly mention these arguments in its order of February 2,
11 2006, does not mean that the court did not consider them.
12 Because the court previously rejected these arguments, and
13 because the court's previous court orders authorizing wiretaps
14 were not clearly erroneous, defendant Mady Chan's motion for
15 reconsideration is DENIED.

16 DATED: March 14, 2006

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19 WILLIAM B. SHUBB
20 UNITED STATES DISTRICT JUDGE
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26 ³ Cf. United States v. Edwards, 303 F.3d 606, 621 (5th
27 Cir. 2002) (concluding that only named interceptees or co-
28 conspirators' conversations could be intercepted by a wiretap
when the authorization specifically restricted interception to
named interceptees or co-conspirators).